24

1944-45 **File No.** 6721/36 I

B CLASS P.W. **DEPARTMENT** E. BRANCH

Subject:— Pension.

Counting of temp'y. or work-charged services towards Consequent on the permanancy of those establishments

(51)

B K 1945

E

File No. 6721/36-I

Std. Sectt. Slip 24-A

Std. Sectt. 78A e.

G. R., G D., No 2403, dated 22-5-22.]

Correspondence

DOCKET SHEET (B)

Subject :—

File No. 6721/36-I

P. W. DEPT.

G. BRANCH.

References :—

Date.	To whom sent.	Notes and instructions.

E.B.

Submitted with ref. to G.L.No.6721/36-E, dated the 14.1.44 and O.N. underlying it.

2. The question under consideration in these papers is whether the concession of counting 3/4ths of the previous tempy.service towards pension granted in para.5 of G.R.No.3260/36, dated the 19.11.43 to the subdtes. brought on the pt. estabt. on 1.4.43 in accordance with the orders issued in the G.R. may also be extended to those subdtes. who were made pt. before 1.4.43. The question arose out of two petitions recd.from Messrs.M.B.Deo and S.A, Patwardhan clerk and Head D' man respectively from the D.I.C. who were made pt.before 1.4.43. Both Messrs. Deo and Patwardhan requested that the concession referred to above of counting 3/4ths of their previous tempy. service towards pension may also be granted to them in order to enable them to earn higher pension than they would be eligible for without the concession.

3. The S.E., D.I.C. while forwarding Mr. Deo's petition has stated that men made pt. in the past were specially selected for efficiency and it is certainly extremely hard that for such efficiency they should be at a disadvantage vis-a-vis their less efficient colleagues who have now obtained automatic permanency in accordance with the orders issued in G.R.No.3260/36, dated the 19.11.43. The grievance being one of genl. nature, the local officers were asked to furnish the information re: the extra annual cost that will be involved in redressing this grievance if the concession of counting 3/4ths of tempy.service towards pension is extended to such subdtes. as Mr. Deo.

../...4.

4. From the reports recd. from the S.Es., N.C., C.C. D.I.C. and S.C. and the C.P.H.E. to Govt. in response to G.L.No.6721/26-E, dated the 14.1.44, the extra annual cost involved is given below in respect of each circle. The El.Engr. to Govt. and the Dir., D.D.Chawls have no cases to report:-

Name of Circle.	No.of subdtes. to whom the concessions are to be granted.	Extra annual cost.
		Rs. as.Ps.
N.C.	12	2,737- 8- 0
C.C.	27	5,066- 8- 0
D.I.C.	33	12,954-12- 0
S.C.	8	1,743- 0- 0
Public Health Br.	7	2,754- 0- 0
Total	87	25,255-12- 0

The extra annual cost inrespect of Messrs. P.K.K. Murti and V.V.Ayya has not been given by the S.E., D.I.C. The total extra annual cost may, therefore, be taken as Rs.26,000 inclusive of the extra cost that will accrue on account of these two persons.

5. It is, therefore, for consideration whether, in view of the not very heavy extra annual cost involved which is, moreover, not one of immediate recurrence as it will commence only when the men retire the subordinates whose names are reported within may be granted the concession of counting 3/4ths of their previous temp.service towards pension on the analogy of the orders issued in para. 5 of G.R.No.5260/38, dated the 19.11.43. If so, these papers may rsfd. u.o. to the F.D.

IV/-
26.544.

CMK.

1. I think the concession may be extended to the particular case mentioned.

2. But where is the general case going to stop?

3. I suggest that the new orders should be to the effect that the concession given in para.5 of G.R. No.3260/36 dated 19.11.43 regarding the counting of three fourths of the previous temporary service towards pension is extended to those subordinates who were in service on 1.4.43 but who had been brought on to the permanent establishment prior to that date, also the concession will not be extended to those subordinates who, by virtue of the fact that the length of permanent service that way be rendered by their will, in due course, entitle them to the full normal superannuation pension.

4. In my opinion the idea underlying the present proposals is fair and sound, but trouble may arise later on by the proposed new orders being quoted as analogies for further extensions to types of cases that we have not foreseen at this stage.

I, therefore, suggest that the F.D. be requested also to consider whether it can think of any such further cases that may arise hereafter.

Id/-

27.5.44.

Secy.(R.&B). Id/- 27.5.44.
U.O. to F.D. dated 27/29-5.44.
The PWD may first be requested to send the papers underlying GR PWD No.3260/36 dated 19.11.43.
Id/-12.6.44. Id/-14.6.

U.O.R. to PWD 16.6.44.

CKK.

M.B.II. P. W. D.

The papers required by the F.D. (viz. files 3260/36 III & IV) are put up below. The case may be referred to the F.D.

Id/- Id/-

26.6.44. 28. 6. 44.

U. O. to F.D. dated 29.6.44.

Finance Department.

Please see para.5 of G.R., P.W.D., No.3260/36 dated 19.11.1945. According to that paragraph temp. subordinates brought on to the permanent estt. are allowed to count 3/4ths of their previous temp. service towards pension. The concession given to some subordinates in that G.R. has now given rise to claims by others. The point made by the P.W.D. is as follows:-

In the P.W.D. several temp. posts have been continued for a number of year. Some of the holders of these posts have been in the past transferred to permanent posts. On being confirmed in such permanent posts they count such service towards pension. But the past service rendered by them in the several temp. posts does not necessarily count for pension unless the conditions of B.C.S.R. 240 are fulfilled. These men have now made a grievance that they were appointed in the past to permanent posts because of suitability, efficiency etc. and while they do not count their past service towards pension, their colleagues who have now been brought under G.R., P.W.Deptt 3260/36 dated 19.11.45 count 3/4ths of the past continuous service towards pension.

.../...It may

It may be pointed out that G.R., P.W.D. No. 3260/36 dated 19.11.43 deals with a specific number of posts and the incumbents thereof only. The intention was to do "justice" to the temporary staff who were undergoing 'hardship' for a number ofyears in being treated as tempy. From the papers underlying that G.R. it will be clear that the intention was to give the concession to 858 men only. Please see in this connection para. 3 of F.D. office note dated 20.8.1943 (P.142 in P.W.D file 3260/34-IV). Even though that note has been written with reference to work-charged establishment, the point mentioned therein remains i.e. the special orders issued in the two P.W.D., G.Rs. were not intended to open past or future cases. Another point to be mentioned is that when these men i.e. those who are representing now, were taken on the permanent establishments, they made their choice. It was open to them to continue on a tempy basis. They cannot now have it both ways. Having once made the choice (when they came on permanent establishment) they cannot argue that their "less efficient " colleagues are now in a better position.

3. If the P.W.D proposal is accepted, it is stated that the extra annual cost will be Rs.25,255-12-0. It is, however, not clear where this will lead to. There are a number of tempy. Govt. servants who continued as tempy. throughout their service. Ordinarily these persons were not entitled to pension and only some of them have been allowed to count half their temporary

.../..service

service for pension ~~xxx~~ under G.C., F.D., No.6957 dated 15.7.1936. Such of those persons who have not got any pension may ~~not~~ come up and say that their colleagues who were junior to them are now being allowed to count 3/4 ths of their tempy. service towards pension while their seniors get no pension at all. Similarly those who have been allowed to count half of their tempy. service towards pension under G.C., F.D., No.6957 dated 15-7-1936 will claim that 3/4th (instead of half) of their tempy. service should be counted for pension and their pensions refixed It will be most undesirable to accede to either of these demands.

4. In view of what is stated in para 2 and 3 above, it is suggested that we may not agree to the proposal of the P.W.D.

Id/- Jt. Secy. Id/-

17.7.44. A.S.

.....

Finance Department (C.B.R.)

Resubmitted after discussion with Jt. Secy.

2. The main contention of the P.W.D. in these papers is that men like Mr. Patwardhan and Mr. Deo were made permanent in the past because of their seniority, efficiency and suitability as compared with others, and that while their less efficient and junior colleagues enjoy, under the P.W.D.C.R. the concession of counting ¾ ths of their previous temporary service towards pension Messrs. Patwardhan Do etc are denied the concession. It does not, however, appear that the P.W.D has examined the point whether it is correct to say that Messrs. Patwardhan Deo etc. do not count any of their previous temporary service towards pension. Please see in this connection B.C.S.R. 240(1). ../..Under

Under that rule 'a Govt. servant holding a temporary post from which he is transferred to a permanent post and the temporary post is subsequently made permanent, although the duty performed in the temporary post entitles pension. Messrs. Patwardhan, Deo etc. stated, have been made permanent before the issue of G.R., P.W.D. No.3260/36, dated 19.11.43. The P.W.D has not stated whether and if so why, they cannot get the advantage of B.C.S.R.240(1) in regard to the continuous duty performed by them prior to confirmation. It is quite possible that men like Mr. Patwardhan Mr. Deo etc. may be holding temporary posts which may have been made permanent later on. Besides under the P.W.D. G.R. of 1943-43 as many as 853 temporary posts have been brough on a permanent footing. It is necessary to examine whether Messrs. Patwardhan, Deo etc. have at any time and if so for what period, held posts which have been subsequently made permanent. Please see also G.R. F.D. No.799/33 dated 13th April 1934. According to the principles set out in that G.R. clause (1) of B.C.S.R. 240 is to be interpreted in such a way that persons who are actually made permanent are to be assumed to have rendered duty in posts which are made permanent even though the posts might have actually been held by other persons. It is also possible that advantage can be given of the G.R. to Messrs. Patwardhan, Deo etc. in regard to counting of their temporary serveice prior to confirmation towards pension. In other words, it is necessary first to examine whether the argument that Messrs. Patwardhan, Deo etc. do not count <u>any</u> of their previous temporary service towards pension is correct, how far is it not correct. In order to dec

.../ ..

decide this, it will be necessary to trace the history of service rendered prior to confirmation by each one of the men, whose case is under consideration in these papers and to ascertain which, if any, of the previous temporary service counts towards pension under B.C.S.R. 240(1) as read with G.R.F.D. No.799/33 dated 13.4.1934. This may result in more than one person counting service for pension in respect of one post but this is permissible under the B.C.S.Rs. The principle of Art. 355 (b) C.S.Rs. has not been accepted in the B.C.S.R. pension rules. A

3. It will thereafter be necessary to see how much of their previous temporary service these men count for pension. Such of these persons who count, as indicated above, 3/4ths or more than 3/4ths of their temporary service towards pension may not be considered as having any grievance. Cases will, however, have to be considered of persons who count less than 3/4ths of their previous temporary service under B.C.S.R.240(1) as read with G.R., F.D. No.799/33 dated 13.4.34.

4. The total number of subordinates whose case is under consideration in these papers is only 87. In view of what is stated in paras 2 and 3 above, their number is likely to be reduced. The extra annual cost of about Rs.25,000/- reported by the P.W.D will also, in that case, be considerably reduced. There would not thus seem to be much objection to the proposal of the P.W.D. Before we agree to the proposal, however, the P.W.D. may examine the points raised in paras 2 and 3 above

../..and

and also indicate the extra cost involved. It may be made clear at this stage that a concession to ~~be made clear at this stage~~ thus allowed will be cofined to these 87 (or lesser number if the investigation indicated in paras 2 and 3 above so proves)men only and that cases where P.W.D. subordinates have already retired after rendering temporary service and have received no pension at all or have been allowed to count only half of their temporary service under G.R., F.D.No. 6957, dated 15th July 1936, will not be re-opened.

Id/- Id/-

29.8.44. 5. 9.

P.W.D may consider these points generally. It is ~~that~~ not suggested as this stage that "A" marking should be gone into the detail.

Id/-B.

6.9.

u.o.r. to P.W.D dt. 7.9.44 (with P.W.D files 3260/36 III & IV)

CKK.

6721/36

E.B.II. P.W.Deptt.

Submitted with ref. to this Deptt. notes at pp.111-113 ante.

2. According to B.C.S.R.240, the duty performed by a Govt. servant holding a tempy. post from which he is transferred to a permanent post counts for pension, if the tempy. post is subsequently made permanent.

3. According to G.R.F.D.No.799/33, dated the 13.4.34, when several tempy. posts are converted into permanent posts and promotion to the posts is made according to seniority or by selection, the Govt. servants actually so promoted should be considered as the holders of the tempy. posts which have been converted and should be allowed to count for pension their tempy. service rendered in the posts.

4. By G.R.No.3260/36, dated the 19.11.43, 858 tempy. posts in this Deptt. have been converted into permanent pensionable posts with effect from the 1.4.43. Under the rule quoted in para.2 above, the tempy. men appointed to the permanent posts have been allowed to count 3/4th of their continuous tempy. service for pension, and it has been directed that in calculating this continuous tempy. service, breaks therein not exceeding 1/10th in the aggregage of the total tempy. service should be condoned.

5. The proposal under consideration in these papers relates to the extension of the concession in para.4 above to 87 men who were in service on the 1.4.43 but had been promoted from the tempy. to the permanent estabt. before that date. These men were appointed to the permanent posts as vacancies

.../...occurred

occurred on the permanent establishment. Their tempy. posts were not converted into permanent posts; otherwise their tempy. service would automatically count for pension under the rule in para.2. above. Their tempy. pension service would not count for pension but only their permanent service from the date they were promoted from the tempy. to the pt. estabt. Hence the proposal to extend the concession in para.4 above to them.

6. From the F.D. notes, it seems that this Deptt. proposal in para.5 above is acceptable to that Deptt. but certain information is required by it; vide the portion marked 'A' at p.117 ante and the F.D. Jt. Secy's note, dated the 6.9.44. The question raised by the F.D. is how many out of the 87 men would count their tempy. service for pension under paras.2 and 3 above. The Jt. Secy't, F.D. has remarked that the question may be considered generally and need not be gone into detail. To ascertain definitely whether any tempy. service in the case of any of these 87 men would count for pension under paras.2 and 3 above, the history of service of each man will have to be examined by the local officers. This will take much time and labour. It may, however, be safely assumed that very few men, if at all any, will be found eligible for the benefit of the rule and orders in paras.2 and 3 above. The local officers and the subdte. estabts. in this Deptt. are aware of the rule and orders in par question and would not fail to claim their benefit if eligible for it; vide in this connection the S.E., C.C's letter dated the 7.3.44 within. As a detailed enquiry into the case is not required by the F.D., it is for consideration whether the proposal may be approved as per draft letter put up. The F.D. may o ee again before submission to A(R).

.../...If

If the F.D., however, again asks for the information it will be called for from the local officers.

7. As regards para.3 of the Dy.Secy's note, dated the 27.5.44, the men who will be eligible for full pension in respect of their permanent service will not require any of their tempy. service to count for pension and no orders on this point appear necessary.

8. Mr. ~~Ramesh~~ Jamna Madha, permanent Chowkidar in the Kaira and Panch Mahals Dnl. office retired from service in July 1944 after serving for about 13 years on the tempy. estabt. and for about 3 years on the permanent estabt.to which was promoted in May 1941. The S.E's proposal to allow 3/4th of his tempy. service to count for pension will be covered by the general orders on the proposal in para.5 above. With the addition of this man, there will therefore be 88 men eligible for the concession.

Id/-
23.9.44.

Ask at A

Id/-
25.9.44.

CKK.

Finance Department.

Submitted with reference to F.D. notes dt.6.9.44.

2. The P.W.D. is of the view that investigation of the history of service of each of these men will take much time and labour. That Deptt, therefore, proposes to issue orders allowing the 87 men (plus one more) to count 3/4ths of their previous temporary service as stated in para.5 of G.R. P.W.D No.3260/36 dated 19.11.43. The case is put up for orders.

Id/-

6.10.44.

I am doubtful about the correctness of the assumption made at X of para 6 of the P.W.D. O.N. dated 23.9.44. It is quite possible that most of the 87 men were holding, before their transfer to permanent posts, Temporary posts which have since been made permanent. The matter is not so urgent as F.D. may advise. That enquiry may be made as already suggested.

Id/- D.S. (S)

26.10.

CKK.

I do not think we need ask P. W. D. to make any detailed enquiry into the history of service of each o these 88 men. Or reconsideration, I think, in quity these men have some case for counting a part of their temporary service for pension, since presumably they were made permanent earlier than the men covered by the G.R. of 19.11.43 on account of their being more senior and/or more efficient. The cost of the P.W.D proposal is also not very heavy. The proposal refers only to men in temporary service promoted to the permanent establishment, and it is presumed that it is not intended to extend the concession to work-charged men made permanent otherwise than under the orders contained in G.R. No.3486/36 df 19.11.43 as otherwise the cost would be substantially increased. (Work-charged service does not count for pension whereas, under certain cirumstances temporary service does). The P.W.D. proposal as understood above may, therefore, be accepted but on the distinct understanding that it will not be cited as a precedent for extending the concession to other categories e.g. (1) those mentioned in para 3 of the F.D. note at p.115 ante.or (2) those who were made permanent before 1.4.43 but retired prior to that date, or (3) work-charged men made permanent otherwise than under the orders in G.R.P.W.D. No.3486/36 dated 19.11.43. The orders may also make it clear that the three-fourths of the previous temporary continuous service now allowed to be counted for pension will be inclusive of any part of the temporary service which already counts for pension under existing rules and orders (ex.g. those referred to in paras

2 and 3 of the P.W.D. note at p.125 ante.).

Id/- I agree. Id/-

6.1. 6.1.

u.o.r. to P.W.D dt. 6.1.45.

CKK.

5721/36/3842.

E.B.(II).

Submitted with reference to the notes on pp. 125 and 126 ante.

2. These papers relate to extend as a spl. case the benefit of the orders in para. 5 of G.R.No.3260/36, dated the 19.11.43 re: the counting of tempy. service towards pension to the subordinates ar inferior servants, who were in service on the 1.4.43 but had been promoted from the tempy. to the pt. estabt. before that date. Under para. 5 of the G.R. mentioned above three-fourths of the previous tempy. continuous service has been allowed to count towards pension and in calculating continuous tempy. service, breaks in tempy. service not exceeding one tenth in the aggregate of the total temporary service are to be condoned. The F.D. states that it may be made clear that three fourths of the previous continuous tempy. service now allowed to be counted for pension will be inclusive of any part of the tempy. service which already counts for pension under existing rules and orders (e.g. those referred to in paras. 2 and 3 of the note on page 125 ante.) It is presumed that the F.D. intends that in calculating continuous tempy. service breaks in the tempy. service not exceeding one tenth in the aggregate of the total tempy. service are to be condoned on the lines of para. 5 of G.R. No.3260/36, dated the 19.11.43. The presumption of G. presumption at A* in the F.D. note is correct.

3. The proposal made by the F.D. may perhaps be accepted. The draft put up may issue, if approved. It may, however be shown u.o. to the F.D. before submission.

Id/-
10.2.45.

Id/-
12.2.45.

Id/-
10.2.45.

u.o.to F.D.

P.W.D. 6721/36.

Finance Department (C).

Submitted with reference to office note dated 6.10.44 and Deputy Secy's note dated 5.1.44.

2. As regards the presumption at "A" in the foregoing P.W.D. office note it may be observed that the concession in para 5 of G.R., P.W.D No. 3260/33 dated 19.11.43 is being extended as a special case to persons who were in service on 1.4.43 but who were confirmed before that date. If these men had continued in their temporary posts and confirmed in accordance with the orders in G.R., P.W.D. No. 3260/33 dated 19.11.43, it is clear the 3/4th of their temporary service would have been allowed to count for pension subject to the condition in the concluding portion of para 5 of the P.W.D. G.R. The same condition re: condonation of break should apply in the case of these men in calculating tempy. service. The P.W.D. presumption may be confirmed.

3. The draft P.W.D., G.R. is in order.

Id/-
15.2.45.

Id/-
18. 2.

U- o. r. to P.W.D. dt. 19.2.45.

CKK.

14 Tres

Establishment,
Counting of temporary service towards pension.

GOVERNMENT OF BOMBAY.

Public Works Department.

Resolution No.6721/36.

Bombay Castle, 19th March 1945.

Read Government letter to the Superintending Engineer, Deccan Irrigation Circle, No.6721/36-E dated the 14th January 1944.

Read endorsement on the above to the other Superintending Engineers of Circles, the Electrical Engineer to Government, the Consulting Public Health Engineer to Government and the Director, Development Department Chawls.

Read Reports from the officers received in response to the Government letter and the Government endorsement mentioned above.

RESOLUTION.-- Government is pleased to extend, as a special case, the benefit of the orders in paragraph 5 of Government Resolution No.3260/36, dated the 19th November 1943 regarding the counting of temporary service towards pension to the subordinate and inferior servants, who were in service on the 1st April 1943 but had been promoted from the temporary to the permanent establishment prior to that date.

2. Three-fourths of the temporary service now allowed to count towards pension will be inclusive of the temporary service which counts for pension under Bombay Civil Services Rule 240 and-permanent Government Resolution (Finance Department) No.799/33, dated the 13th April 1934.

By order of the Governor of Bombay,
Sd/-..
(G. N. PANDIT),
2.3.45.
Deputy Secretary to Government. ../

To

The Finance Department.
The Superintending Engineers of Circles.
The Electrical Engineer to Government.
The Public Health Engineer to Government.
The Special Officer (Electric Grid) with a copy of Government Resolution No.3260/36, dated the 13th November 1943.
The Accountant General, Bombay,
The Executive Engineers of Divisions.
The Director, Development Department Chanda.

No. of 1943.

Copy forwarded for information and guidance to